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October 31, 2017

VIA E-MAIL AND ELECTRONIC FILING

The Honorable Dallas Winslow
Chair
Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, DE 19904

Re: In the Matter of the Application of Delmarva Power & Light Company for
an Increase in Electric Base Rates and Miscellaneous Tariff Charges
PSC Docket No. 17-0977

Dear Chairman Winslow:

My firm, Morris, Nichols, Arsht & Tunnell, serves as outside counsel for Delmarva Power & Light Company ("Delmarva") in the above-referenced matter. I write this morning to state Delmarva's objection to the Joint Motion for Interlocutory Appeal being considered today by the Commission.

Yesterday afternoon, October 30, 2017, at approximately 1:40 p.m. Delmarva became aware that an entry had been made on the Public Service Commission Docket for today's Commission meeting captioned "Joint Motion for Interlocutory Appeal of the Hearing Examiner's Decision on October 30, 2017." Neither Delmarva nor its counsel had been consulted regarding this entry on the Commission Docket or had been consulted by Staff or DPA about, or served with, any motion. Without filing or serving papers on Delmarva, Staff and/or DPA unilaterally contacted PSC personnel and got the item placed onto the Commission's schedule.

Subsequently, by a matter of an hour or so, a joint motion was filed and later served on Delmarva. The substance of the motion is that Hearing Examiner Lawrence has referred the Staff and DPA's Motion to Stay Discovery and further Proceedings in this matter to the Commission for consideration with their Motion to Dismiss this pending rate case which is scheduled to be heard on November 9, 2017. Apparently, Hearing Examiner Lawrence did so in order to allow both the Staff and DPA's Motion to Dismiss and the related Motion to Stay the pending proceeding to be heard at the same time by the Commission on November 9, 2017.

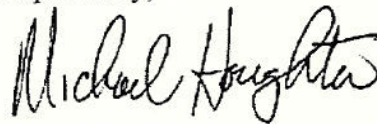
The thrust of Staff and DPA's concern with the pending schedule is that Staff and DPA are scheduled to promulgate follow up data requests to Delmarva as of this Wednesday, November 1, 2017 and they object to having to do so in light of the current procedural posture of the matter.

In several e-mails delivered yesterday afternoon to Mr. Geddes, on behalf of Staff, and Ms. Iorii, on behalf of DPA, by my partner, Donna Culver, Delmarva unequivocally stated that it is willing and prepared to postpone any obligations of Staff or DPA (or the Intervenor) under the pending schedule for two weeks in order to allow the Motion to Dismiss to be addressed by the Commission. (See attached e-mails.) Moreover, Ms. Culver also represented that Delmarva is willing (1) to discuss additional extensions of all dates in both the pending electric and gas cases, (2) to agree to new public notice and public comment sessions for the electric case and (3) to agree to not place any more than the original \$24.4 million of its now adjusted revenue request of \$31.2 million into effect as interim rates as of March 17, 2018.

Delmarva, in the strongest terms, believes it is totally inappropriate for any motion for interlocutory appeal to be presented and heard by the Commission today. As noted, the matter was scheduled in a wholly inappropriate fashion with little to no practical notice afforded Delmarva. Moreover, there is no need for any appeal. Delmarva has obviated the need for the issue to be considered by agreeing to a two week extension of the schedule and attempting to open a dialogue with Staff and DPA regarding additional extensions. All Staff and DPA need do is agree and all parties can propose this interim modification to Hearing Examiner Lawrence for approval.

In light of the foregoing, Delmarva requests that the Joint Motion for Interlocutory Appeal filed yesterday afternoon be stricken from the agenda as inappropriately scheduled and unnecessary at this time.

Respectfully,



Michael Houghton

MH/kav

Enclosures

cc: Hearing Examiner, Mark Lawrence
Robert Howatt, Executive Director, Delaware Public Service Commission
Drew Slater, Public Advocate
James Geddes, Esq.
Regina Iorii, Esq.

Culver, Donna

From: Culver, Donna
Sent: Monday, October 30, 2017 4:55 PM
To: 'James Geddes'
Cc: Scaggs, R.J.; Gina Iorii; Houghton, Michael; Grzaslewicz, Barnaby
Subject: RE: Delmarva Rate Case: Motions to Dismiss & Stay

Jim,

We understand your position on the Motion to Dismiss, but were offering an immediate extension of two weeks to take the pressure off while the Commission considers the Motion to Dismiss. In terms of a negotiated resolution of the Motion to Dismiss, we had hoped to schedule a call with you and Gina late last week to discuss, although I understand there may have been some confusion over who was leading that effort as the principals were also discussing a proposed resolution. While we are prepared to discuss a longer term extension to the schedule, along with capping the interim rates that go into effect in March of 2017 at \$24.4 million and re-noticing an holding new public comment sessions as part of a negotiated resolution of the motion to dismiss, we thought that an extension that would at least get us by the hearing on the motion to dismiss when we will have a better sense of the lay of the land would benefit everyone and would allow you to at least withdraw the motion to stay.

Donna

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From: James Geddes [mailto:jamesgeddes@mac.com]
Sent: Monday, October 30, 2017 4:05 PM
To: Culver, Donna
Cc: Scaggs, R.J.; Gina Iorii
Subject: RE: Delmarva Rate Case: Motions to Dismiss & Stay

Staff's position is that the Delmarva's August application has to be withdrawn and refiled using the Supplemental filing as a basis for a new rate filing. Staff will not agree to just extending the existing schedule –and certainly not for just two weeks; the Supplemental Testimony came in two months –not two weeks after the original filing.

Staff intends on presenting the Joint Motion to Dismiss to the Commission at its meeting on November 9th.

James McC. Geddes
Ashby & Geddes
500 Delaware Ave.
Wilmington, DE 19801

From: Iorri, Regina (DOJ)
Sent: Monday, October 30, 2017 2:50 PM
To: 'Culver, Donna'; jamesgeddes@mac.com
Cc: Grzaslewicz, Barnaby; Scaggs, R.J.; Houghton, Michael
Subject: RE: Delmarva Rate Case: Motions to Dismiss & Stay

That is not going to work. I was adamant when we were putting the schedule together that there be no substantive matters due while I was on a vacation out of the country between March 31-April 11, and Delmarva knows that. Pushing the schedule back two weeks will mean I will be working on a brief while I am on vacation out of the country March 31-April 11. That is not going to happen; I am not taking a suitcase full of briefing materials and working, and unlike almost every other party in this case, I don't have anyone else to write a brief for me. In addition, Staff and DPA would have to re-check all of our consultants' schedules. Finally, moving back only two weeks will push the electric case too close to the gas case. Even if my vacation were not an issue, I cannot be writing a brief and preparing for gas hearings at the same time.

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From: Culver, Donna [<mailto:DCulver@MNAT.com>]
Sent: Monday, October 30, 2017 2:39 PM
To: Iorri, Regina (DOJ) <regina.iorri@state.de.us>; jamesgeddes@mac.com
Cc: Grzaslewicz, Barnaby <bgrzaslewicz@MNAT.com>; Scaggs, R.J. <RScaggs@MNAT.com>; Houghton, Michael <MHoughton@MNAT.com>
Subject: RE: Delmarva Rate Case: Motions to Dismiss & Stay

Delmarva is agreeable to pushing all dates in the schedule by two weeks.

Let me know if that resolves the motion to stay.

Thanks.

Donna

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From: Iorii, Regina (DOJ) [<mailto:regina.iorii@state.de.us>]
Sent: Monday, October 30, 2017 1:29 PM
To: Culver, Donna; jamesgeddes@mac.com
Cc: Grzaslewicz, Barnaby; Scaggs, R.J.; Houghton, Michael
Subject: RE: Delmarva Rate Case: Motions to Dismiss & Stay

Donna – a follow-up issue that I didn't think of until we hung up. In our view, staying discovery will necessitate adjustment of the current schedule. What is Delmarva's position on that?

Thanks, Gina

Regina A. Iorii
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From: Culver, Donna [<mailto:DCulver@MNAT.com>]
Sent: Monday, October 30, 2017 1:09 PM
To: Iorii, Regina (DOJ) <regina.iorii@state.de.us>; jamesgeddes@mac.com
Cc: Grzaslewicz, Barnaby <bgrzaslewicz@MNAT.com>; Scaggs, R.J. <RScaggs@MNAT.com>; Houghton, Michael <MHoughton@MNAT.com>
Subject: RE: Delmarva Rate Case: Motions to Dismiss & Stay

Jim and Gina,

RJ is away this week, but asked that I follow-up on his email below to see if there is any interest in further discussing and to discuss the Motion to Stay. As to the latter, Delmarva is agreeable to staying discovery pending next week's hearing on the motion to dismiss and would ask that you withdraw the motion.

Thanks.

Donna

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From: Scaggs, R.J.
Sent: Wednesday, October 25, 2017 6:59 PM
To: 'Iorii, Regina (DOJ)'; jamesgeddes@mac.com
Cc: Culver, Donna; Grzaslewicz, Barnaby
Subject: Delmarva Rate Case: Motion to Dismiss

Jim and Gina:

We would appreciate the opportunity to explore with you the potential for a negotiated resolution of your motion to dismiss.

Could we please schedule a conference call at your early convenience – perhaps tomorrow?

Thank you,

RJ

R. JUDSON SCAGGS, JR.

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